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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,854	09/29/2003	J. Thomas Light	565647.0002	6320

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Cummings & Lockwood
Granite Square
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EXAMINER

BEACH, THOMAS A

ART UNIT PAPER NUMBER

3671

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/674,854	LIGHT, J. THOMAS	
	Examiner	Art Unit	
	Thomas A Beach	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 01/14/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on 01/14/05. These drawing(s) are accepted.

Claim Rejections - 35 USC § 102

2. Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mattson et al 3,468,041. Mattson shows a glide wheel assembly for supporting an auger housing 22 of a snow blower 20, including first means 47 connectable to the auger housing and mechanically coupled to an axle of a glide wheel 29 for translating the mechanical support of the glide wheel to the auger housing of the snow blower; and second means 49 for fixedly adjusting the position of the axle axis relative to the auger housing.

As concerns claim 8, the Mattson shows the first means includes a bracket plate 47 to which at least one cylindrical axle 46 for at least one wheel 28/29 is perpendicularly affixed at a location in the central portion of the bracket plate.

Claim Rejections - 35 USC § 103

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mattson et al 3,468,041 in view of Miller 5,438,770. As concerns claims 1 and 3, Mattson shows stand-behind snow blower apparatus 20 for removing snow from a surface including an engine; an attached front-mounted auger housing 22 having a first

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sidewall, a second sidewall 39 and a scraper blade 38, and a first glide wheel affixed to the first sidewall 28 and a second glide wheel 28 affixed to the second sidewall, but does not show the snowblower to be a self-propelled with drive wheels. However, Miller shows a similar snow blower apparatus for removing snow from a surface including an engine 4 located above two drive wheels 8; an attached front-mounted auger housing 2 having a first sidewall, a second sidewall and a scraper blade, and a first glide shoe (unnumbered in figure 1, adjacent reference numeral 2) affixed to the first sidewall and a second glide wheel affixed to the second sidewall. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mattson, as taught by Miller, to include drive wheels on the snow blower to make the apparatus self propelled to reduce the fatigue experienced by the operator of self-propelled snow blower in snowy condition, thus improving the safety of the apparatus during use.

As concerns claim 2, the combination shows the first and second glide wheels are affixed by first and second axles that are bolted (Mattson, 46) to the first and second sidewalls.

As concerns claim 4, the combination shows the first and second glide wheel assemblies comprise a bracket plate (Mattson, 47) having an axle (Mattson, 46) affixed perpendicularly to the bracket plate and at least one wheel (Mattson 28/29) mounted on the axle.

As concerns claim 5, the combination shows the first and second glide wheel assemblies comprise an adjustable glide wheel mounting assembly (Mattson 49) having

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a bracket plate (Mattson 47) with an axle affixed perpendicularly at a central region of the bracket plate (considered central relative to the top and bottom of plate (Mattson 47) in figure 3 of Mattson), a wheel mounted (Mattson 28/29) on the axle (Mattson 46), and a height adjustment assembly (Mattson 49).

As concerns claims 6 and 9, the combination shows the height adjustment assembly comprises a bracket plate (Mattson 47) having at least one axle (Mattson 46) affixed perpendicularly at a central region of the plate, at least one wheel (Mattson 28/29) mounted on the axle (Mattson 46), a pivot hole (Mattson 48) in the bracket plate at a first location outboard of the wheel but Mattson does not show a slotted hole in the bracket plate at a second location outboard of the wheel, instead shows a lug (Mattson 49b) that fits into a plurality of holes (Mattson 50). However, Miller shows, in figure 1, an adjustable shoe (unnumbered) having a pivot hole (left-hand slot) and a second slot (right-hand slot) that allows for infinite height positions within the slot length of the shoe. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mattson, as taught by Miller, to include a second slotted hole to increase the number of positions and angles of the apparatus relative to the ground to improve the overall adaptability of the snow blower to many types of conditions and snow heights. Furthermore, application had stated in the specification that an adjustable arrangement having a plurality of holes is contemplated (page7, line 17-18) supporting the obviousness between that of a slot and plurality holes.

As concerns claims 7-8, the combination shows a self-powered walk behind blower with glide wheel assembly for supporting an auger housing 22 of a snow blower

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20 (Mattson), including first means 47 connectable to the auger housing and mechanically coupled to an axle of a glide wheel 29 for translating the mechanical support of the glide wheel to the auger housing of the snow blower; and second means 49 for fixedly adjusting the position of the axle axis relative to the auger housing.

Response to Arguments

4. Applicant's arguments filed 01/14/05 have been fully considered but they are not persuasive. Applicant's arguments that Mattson is light or with a sealed electric motor are noted; however, they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The argument of lightness relative to the user of the invention and cannot be properly relied upon to prevent the combination.

Since the wheel of Mattson is involved in the height adjustment of the blade it would meet that claim limitation; however, it is more important to note that this unclaimed features upon which applicant relies (i.e., the wheels being involved with the blade height adjustment) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

5. In response to applicant's argument that the combination would not result in the invention, the test for obviousness is not whether the features of a secondary reference

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may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 571-272-6988. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Thomas A. Beach

May 2, 2005


THOMAS WILL
Supervisory Patent Examiner
Group 3600